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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,669	09/29/2003	Masato Yoshino	P24073	8272

7055 7590 10/28/2004

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RESTON, VA 20191

EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/671,669

Applicant(s)

YOSHINO ET AL.

Examiner

Lan Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/868,633.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Resch et al.

Resch et al. show a braking system in figure 1, as in the present invention, comprising: a brake pedal 66, a stroke sensor 123 that outputs a stroke signal in response to a stroke of the brake pedal; an accumulator 92 that accumulates a pressurized braking liquid; a proportional pressure controller 28, 113, 114, that controls the pressure of the pressurized braking liquid, and supplies the pressurized braking liquid to a wheel, the proportional pressure controller including a spool 39, 38, 29; and a push rod 67 connected to the brake pedal 66 and movable between a first position spaced from the spool as shown in figure 1; and a second position contacting the spool, see column 2, lines 35-43 and column 10, lines 20-46, wherein the push rod moves in response to the stroke of the brake pedal in order to contact and push the spool; wherein the proportional pressure controller controls the pressure of the pressurized braking liquid in accordance with the stroke signal before the push rod contacts and pushes the spool, see column 11, lines 60-end, and in accordance with the stroke signal

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and the motion of the push rod after the push rod contacts and pushes the spool, see column 2, line 67 to column 3, line 7.

Re: claims 2 and 3, Resch shows spring 73 as a part of the push rod 67 assembly.

### ***Response to Arguments***

3. Applicant's arguments filed 8/10/04 have been fully considered but they are not persuasive. Applicant argues that the push rod 67 of Resch et al. never contacts the spool 29, 38, 39 because spring 73 biases the push rod 67 away from the spool 29, 38, 39; and that the cited passage of column 2, lines 40-43, only refers to the primary piston 29 striking the secondary piston 31, not the push rod 67 striking the spool 29. Applicant is correct that cited passage of column 2, lines 40-43, only refers to the primary piston 29 striking the secondary piston 31, not the push rod 67 striking the spool 29. Looking at figure 1 of Resch, one can see that in order for 29 to strike 31, a force needed would have to overcome the forces of the restoring springs 37 and 51 and to overcome the distance between the plunger 122 of primary piston 29 and secondary piston 31. It is believed that the force needed would have to be transferred from the push rod 67 to the spool 29, 38, 39 by direct contact of the push rod and the spool due the shorter distance between the push rod and the spool in comparison to the distance between the plunger 122 and the secondary piston 31 since at the time of accumulator and pump failure, there would be no pressurized fluid to help with the actuation of the brakes. The entire operation relies upon the mechanical actuation of the brake pedal and the push rod 67.

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This is shown in column 10, lines 20-46 where Resch states that "In the event of a failure of the power assistance, e.g., due to failure of the pressure accumulator 92 or its charge pump 89... The brake pressure build up now takes place just by means of the displacement of the plunger 39 of the primary piston 29 under the effect of pedal force K1 coupled in via the ram plunger 67." And in column 2, lines 35-43, Resch states "Although there is an extension to the pedal travel if the auxiliary pressure source fails since the maximum available displacement stroke of the primary piston (29) in a failure of the auxiliary pressure source (92, 89) reaches from the basic position to the striking position of the primary piston (29) against the secondary piston (31), which for its part runs up against the end face (53) of the cylinder casing." Numbers have been inserted in the cited passage for clarification purposes. It is clear that the push rod 67 directly contacts the primary piston 29 due to an extension in pedal travel to overcome the distance between the plunger 122 of primary piston 29 and secondary piston 31 for primary piston 29 to strike secondary piston 31 and for secondary piston 31 to runs up against the end face 53 of the cylinder casing. The rejection is still deemed proper and is repeated above.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Nguyen  
Patent Examiner  
Art Unit 3683

*Lan Nguyen* 10/25/04